

Deepak Moorjani

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"Kohlenberg, Kerstin" <Kerstin.Kohlenberg@zeit.de> 

May 13, 2009 2:03 PM

To: DEEPA

AW: Links to Articles

Hi Deepak,

oh yes, I read them and after that went to your scribt-page and read everything that is there.

What you discovered at Deutsche Bank in regards to almost 100percent loans and the connection to bonuses is exactly what apparently happened at Hypo Real Estate (only that they offered 160 percent commercial real estate loans which in German is actually against the law. I am researching that story right now) so I am a little familiar with the topic. I just did a story about Merkel and her advisers and how badly their bank-overview functions. (<http://www.zeit.de/2009/15/DOS-Kanzleramt>)

I believe what you discovered in a heartbeat. I think your demands for better risk management and a different incentive structure need more audience - and connected with that very case that you are presenting, it would make a big, big story. I write 8000 word features (kind of like a New York times Magazine Story) and I would very much write about you and the case you are making. There are a lot of people out there that demand change, but there is you who can show how rotten the system still is, and how the managers say one thing to the media and something else to people like you.

The fact that your letter was ccd to Angela Merkel makes it even more interesting, because I could confront her with it, and ask about her real interests in changing the system (like she said on the G20 summit)

So any clue when you will be back in New York?

Kerstin

-----Ursprüngliche Nachricht-----

Von: DEEPAK MOORJAN

Gesendet: Mi 13.05.2009 18:50

An: Kohlenberg, Kerstin

Betreff: Links to Articles

Hi Kerstin,

Have you read these articles? If so, I'd welcome your thoughts.

A.

B.

Deepak

On May 14, 2009, at 12:57 AM, Kohlenberg wrote:

Deepak,

That's really unfortunate. When so you come back to the States?

Kerstin

Am 13.05.2009 17:51 Uhr schrieb "DEEPAK MOORJANI" unter

Hi Kerstin,

Unfortunately, I am stuck in Asia. Hearings are discontinuous, and I'm not sure when the next hearing will be. The April hearing was public, but most are closed hearings (including this Friday's hearing).

I'll recommend that we "meet" via videoconference. It's the next-best alternative and better than a phone call. Maybe even this weekend.

Thanks,
Deepak

On May 14, 2009, at 12:10 AM, Kohlenberg wrote:

Hi Deepak,

Thanks again. Just two quick questions in order to plan my trip next

Chairman

JUN MAKIHARA

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Deepak Moorjani
02/08/2007 03:09 PM

To: Michael Cohrs/DMGIB/DMG UK/DeuBa@DBEMEA
cc:
Subject: Via Jun

Hi Michael,

Yes, I was. Bonus day turned into a bigger distraction than imagined. Apologies for the delay.

I've convinced the sponsor of a large JREIT to go private in an MBO transaction. It's fairly large transaction (\$1.7-1.8 billion), and if necessary, I would like to get your advice if we hit any major hiccups. Currently, we do not have any major issues, but I wanted to introduce myself well in advance in the event that I need some advice.

Thank you.

Deepak Moorjani
Deutsche Securities Inc.

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Michael Cohrs/DMGIB/DMG UK/DeuBa@DBEMEA

①

Michael Cohrs/DMGIB/DMG
UK/DeuBa@DBEMEA
02/05/2007 10:54 PM

To Deepak Moorjani/db/dbcom@DBAPAC

cc

Subject

I think you were trying to reach me--how can I help?

裁判官殿

以上は、会社側提案の日本語訳を前提にした回答です。

1、総論

- (1) 和解に際して、当事者間で合意される事項は、東京地方裁判所における日本語の合意事項として一体となったものである必要があります。
- (2) そこで課される義務の内容は、性質上一方のみに課されることがやむを得ないものあるいはその義務の内容を一方のみに具体化する必要がどうしてもあるものを除き、双務的なものである必要があると考えます。
- (3) また、本件訴訟の当事者は、原告と被告であるところ、その余の第三者に対して権利義務を確定させようとするれば、本来はそれらの者について和解への利害関係人としての参加が必要とされるところです。それがないままに第三者に関する権利義務（たとえば、誹謗中傷をしない、させない）に言及するのであれば、それは一般的な表現にとどまらざるをえないと考えます。
- (4) なお、これまで原告が被告やその関係者に対して送付してきた文書は、労使紛争が存在することを前提として、その解決を求める趣旨でなされてきたものであり、一般の労使紛争で行われる就労活動や抗議活動と同じ性格のものです。また、それらの文書では、紛争の説明のために会社の内部関係にも言及していますが、それらはなんら公表によって会社に具体的な損害を発生させるわけではない一般的な事項です。それゆえ、そのような抗議文書の存在は、労使紛争の解決に伴いその必要性も意味もなくなるものであり、和解において通常以上の行為制限を加える理由とはなりません。

2、[物品の返還・機密情報の守秘等] 及び [裁判上の和解および本契約における守秘] について

守秘に関する事項は、原告は基本的に受諾の意向はありますが、その条項の内容は前回の和解協議でも裁判所から方針が示されたように、裁判所で通常用いられる文章例に従ってなされる必要があります。また、物品の返還に関する条項は、仮に加えるとするならば、その返還すべき（であるが

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未だ返還されていない) 物品の対象を特定していただく必要があります。そうでない場合は、返した、持っていないなど事後の紛争につながる危険性があります。

3、[誹謗中傷の禁止]

従前の誹謗中傷の禁止に関する条項が、より広範な「信用を害するいかなる行為」に拡大されたことは受け入れることができません。誹謗中傷という違法な行為を自制することや、「暴行・傷害、嫌がらせ、脅迫、困惑」を行わないことは、双務的な当然の合意事項として受け入れ可能です。この項の内容には、さらにそれらを超えた守秘に関する事項も含まれていますが、その点は、上記の条項ですでにカバーされているものです。それをはるかに超えた、合法的な表現や通信の制限 (個人的な通信を特定の者に限定して被告の許可に科からしめる、あるいは株主としての連絡を通常の株主窓口とは異なる特定の部署に限定するなど) は、公序良俗に違反する内容となる可能性があります。

4、[情報公開の禁止]

この条項も、上記の守秘条項ですでにカバーされている内容であり、受け入れることはできません。さらに、そのような守秘義務を超えて、原告の 外部への表現を一切規制する内容は、公序良俗に違反する内容となる可能性があります。

5、[インターネットからの提示撤去]

この点は、受け入れる用意があります。

6、[訴訟上の和解により会社が支払う金員]

この条項の内容では受け入れることができないことはすでに前回の和解協議の中でお話ししたところです。裁判所が示唆した双務的な違約金に関する考え方は、受け入れる余地があります。

7、[差止め]

実体的な権利侵害行為に対する差止め請求権は、合意によらずに発生するものです。このような条項は基本的に不要であると考えます。しかし、そのような条項を要求されるのであれば、その内容は、権利侵害行為に対する差止め請求権を確認するシンプルもので、双務的な条項とされるべきです。

8、[精算条項]

精算条項は、すでに日本法の下で精算条項として有効に用いられている和解条項が存在しますので、それによるべきです。会社側から提案された精算条項は、日本法以外にも広範にわたるものであって、日本法の下での和解協議においては責任を持った判断は不可能です。仮に日本法のもとでの精算条項の対象について、会社側において疑義を払拭したいというのであれば、和解に先立ち、会社側がとりわけて精算の対象となる疑義を払拭したいと考える権利義務関係を列挙したリストを、当方に交付する手法が可能であると考えます。

9、〔退職日〕

基本的に受け入れ可能ですが、これは日本法の和解実務に従い、解雇の撤回と円満退職を内容とするものになると考えます。

10、〔本合意の重要性〕

本和解における退職の処理、金銭支払いその他の義務の設定がそれぞれ対価関係となっていることは、和解条項から明らかであり、その趣旨をさらに確認する条項の必要性はないと考えます。加えて、会社側提案の条項の内容は、日本法では理解不能な文言があり、責任を持った判断は不可能です。

11、〔無効規程の分離可能性〕

会社側提案の条項の内容は、日本法では理解不能な文言があり、責任を持った判断は不可能ですので、受け入れることはできません。

12、〔準拠法〕

本件和解におけるすべての合意は、日本の裁判所で、日本法に基づきなされるものであり、それ以外の準拠法を設定することは、本件和解の執行可能性と法的安定性を奪う結果となります。受け入れることはできません。

13、〔異議申立権の放棄〕

日本法に基づけば、訴訟上の和解がそこで定められた事項の最終的な解決であることは当然のことです。その意味をあいまいにする会社側の提案を受け入れることはできません。



Richard H. Walker Elected to MBIA's Board of Directors

ARMONK, N.Y.--(BUSINESS WIRE)--Sept. 14, 2006--MBIA Inc. (NYSE: MBI) announced today that Richard H. Walker was elected to MBIA's Board of Directors. Mr. Walker is the general counsel of Deutsche Bank, where he oversees the Legal and Compliance departments worldwide.

Before joining Deutsche Bank in 2001, Mr. Walker was director of the Division of Enforcement for the Securities and Exchange Commission (SEC). Preceding his appointment to that position, he served as general counsel and northeast regional director since joining the SEC in 1991. Prior to the SEC, Mr. Walker spent 15 years in the New York office of Cadwalader, Wickersham & Taft, where he was a litigation partner specializing in corporate, securities and commercial litigation.

MBIA Board Member and Nominating/Corporate Governance Committee Chair Claire Gaudiani said, "Richard's impressive legal, compliance and financial expertise will add important depth to our Board. We are delighted to have him join us, and are confident that the experience he's gained throughout his remarkable career will provide an invaluable asset as we guide MBIA's continued growth in the global financial guarantee marketplace."

While at the SEC, Mr. Walker was awarded the Presidential Rank Distinguished Service Award in 1997--the highest federal award for government service. He also received the SEC's Distinguished Service Award, and the Chairman's Award for Excellence.

Mr. Walker is a member of the New York Stock Exchange Legal Advisory Committee, and is a trustee of the Securities and Exchange Commission Historical Society and the American Folk Art Museum. A Phi Beta Kappa graduate of Trinity College, Mr. Walker received his J.D. degree, cum laude, from Temple Law School.

MBIA Inc., through its subsidiaries, is a leading financial guarantor and provider of specialized financial services. MBIA's innovative and cost-effective products and services meet the credit enhancement, financial and investment needs of its public and private sector clients, domestically and internationally. MBIA Inc.'s principal operating subsidiary, MBIA Insurance Corporation, has a financial strength rating of Triple-A from Moody's Investors Service, Standard & Poor's Ratings Services, Fitch Ratings, and Rating and Investment Information, Inc. Please visit MBIA's Web site at www.mbia.com.

CONTACT: MBIA Inc.
Liz James, 914-765 3889

SOURCE: MBIA Inc.

Mark Grolman

Managing Director

General Counsel, Australasia & Japan

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Deutsche Bank



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Daiki Kajino/db/dbcom
2007/05/09 19:19

To Tomohiko Kimura/Tokyo/DBJapan/DeuBa@DBAPAC

cc

bcc

Subject Fw: Staff - Privileged & Confidential

Kimura-san

As we discussed in this morning, I explained the current situation to Murakami-san in HR. After that, I arranged conference call with Sunil Madan and it is already fixed on tomorrow at 17:00 (Tokyo Time).

Murakami-san and I will have a conference call with him and ask him about our concerns. If you need to join it, please let me know.

As to investigation of Frank's e-mail for Pipeline issue, I will start it as soon as I obtain Mitch's approval.

Regards,

☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆
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☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

----- Forwarded by Daiki Kajino/db/dbcom on 2007/05/09 19:13 -----

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Mark
Grolman/Sydney/DBAustralia
/DeuBa@DBAPAC
2007/05/09 19:09

To "Dick Walker" <richard.h.walker@db.com>,
janice.reznick@db.com, rachel.blanshard@db.com,
jiana.leung@db.com, "Kiyoshi Murakami"
<kiyoshi.murakami@db.com>, "Andrew Hume"
<andrew.hume@db.com>, "Daiki Kajino" <daiki.kajino@db.com>,
"Mr. Tomohiko (Tom) Kimura" <tomohiko.kimura@db.com>

cc

Subject Staff - Privileged & Confidential

PRIVILEGED & CONFIDENTIAL

Below are draft notes of the interview I had with Frank Forelle yesterday.

NEXT STEPS

I suggest for your consideration that the next steps should be:

- (a) we interview Sunil Madan. Tom Kimura has agreed to do that by telephone as soon as possible this week;
- (b) when Deepak Moorjani returns to Tokyo from the US next week, we press him again to produce all evidence he has of any alleged violations or wrongdoing. In the two weeks since he was interviewed he has not produced any evidence;
- (c) agree a letter to Mr Moorjani in response to his letter. I suggest that this letter be signed by David Hatt as President and CEO of DSI (the employer of Mr Moorjani). David Hatt has been briefed on this matter. I will draft the response letter for your review. Once agreed, that letter should be delivered to Mr Moorjani.

I also propose giving the draft notes of meeting to Frank Forelle to check for accuracy.

Richard H. Walker
General Counsel



Deutsche Bank AG
Legal Department
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New York, NY 10005

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richard.h.walker@db.com

January 29, 2008

Mr. Gary C. Dunton
Chief Executive Officer and President
MBIA Inc.
113 King Street
Armonk, NY 10504

Dear Gary:

I have concluded that I should resign from MBIA's Board. I do so with great regret and only after very careful consideration of the interests of both MBIA and Deutsche Bank.

When I joined MBIA's Board in 2006, existing business relationships between MBIA and Deutsche Bank provided no basis to believe that I would be unable to give both institutions my full attention and undivided loyalty. Given the events of the past week, however, I am now in a position where I can no longer be confident that continuing to act on behalf of both institutions will not lead to the possibility of an appearance that I may have reason to favor one over the other on a matter of great importance to both. In these circumstances, my ability to continue to act on behalf of either institution may be constrained. Given the importance of restoring credibility in the marketplace, I would not want my role to become a distraction to ongoing efforts to achieve this goal.

I am proud to have been associated with MBIA, and I would have liked to continue serving on MBIA's Board. I leave the Board with great affection for all my fellow directors and with appreciation for their wisdom and dedication. I would also be remiss if I did not applaud the exceptional MBIA staff. I am confident that this top-flight staff, with the Board's support, will guide MBIA to future successes.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard H. Walker", written in a cursive, flowing style.

Richard H. Walker

cc: Members of the Board of Directors